## UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF INDIANA INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
V.	)	Cause No. 1:02-cr-0123-SEB-TAB
	)	
JASON L. WILBURN,	)	- 02
	)	
Defendant.	)	

## REPORT AND RECOMMENDATION

On July 9, 2014 and November 4, 2014, the Court held hearings on the Petition for Warrant or Summons for Offender Under Supervision filed on June 2, 2014. Defendant Wilburn appeared in person with his appointed counsel, Michael Donahoe. The government appeared by Winfield Ong, Assistant United States Attorney. U. S. Parole and Probation appeared by Officer Mike Burress.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. § 3583:

- 1. The Court advised Defendant Wilburn of his rights and provided him with a copy of the petition. Defendant Wilburn waived his right to a preliminary hearing.
- After being placed under oath, Defendant Wilburn admitted the violations.
   [Docket No. 46.]
  - 3. The allegations to which Defendant admitted, as fully set forth in the petition, are:

## Violation Number Nature of Noncompliance

- "The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician."
- 2 "The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered."
- 3 "The defendant shall refrain from any unlawful use of a controlled substance."

The defendant tested positive for marijuana on January 22, 2012 (addressed at a REACH hearing in February 2013), January 14, February 11, February 20, 2014 (See Report on Offender Under Supervision filed February 28, 2014), April 9 and May 6, 2014. The defendant admitted his usage each time.

4 "The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer."

On August 14, 2013, the defendant received an infraction ticket for driving while suspended from the Indianapolis Metropolitan Police Department, and he failed to notify this officer of the incident. On February 14, 2014, this officer confronted him about the law enforcement contact, and he acknowledged his failure to inform this officer.

- 4. The parties stipulated that:
  - (a) The highest grade of violation is a Grade C violation.
  - (b) Defendant's criminal history category is III.
  - (c) The range of imprisonment applicable upon revocation of supervised release, therefore, is 5 to 11 months' imprisonment.
- 5. The parties jointly recommended a modification of Defendant Wilburn's current supervised release to include up to 120 days of home detention with electronic monitoring (RF).

The Magistrate Judge, having considered the factors in 18 U.S.C. § 3553(a), and as more

fully set forth on the record, finds that the Defendant violated the conditions in the petition, that

his supervised release should be modified to include up to 120 days of home detention with

electronic monitoring (RF). The Defendant is to be released pending the District Judge's action

on this Report and Recommendation.

The parties are hereby notified that the District Judge may reconsider any matter assigned

to a Magistrate Judge. The parties have fourteen days after being served a copy of this Report

and Recommendation to serve and file written objections with the District Judge.

Dated: 11/10/2014

United States/Magistrate Judge

Southern District of Indiana

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